

Report by the
Environmental Law Enforcement Review Panel
submitted to
Secretary Ellen Roy Herzfelder



March 2005



MASSACHUSETTS ENVIRONMENTAL POLICE

**“Meeting the Challenge
of
Protecting our Natural Resources”**



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Environmental Law Enforcement Review Panel

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Acknowledgements

The Environmental Law Enforcement Review Panel's final report represents a major undertaking by many stakeholder groups, agency personnel, and private citizens of the Commonwealth of Massachusetts. Many individuals gave their time by attending interviews, filling out surveys, participating in focus groups meetings, and providing testimony at public meetings. The process was inclusive and thorough.

Representatives of stakeholder groups solicited opinions and provided input from their respective organizations. Environmental agency heads provided testimony at the panel's meetings relative to agency needs and perspectives. Back-up information and data were also provided for additional review and analysis. Personnel from the Office of Law Enforcement provided a great deal of information to the panel and the consultant and were always available and willing to answer questions. The Management Assistance Team's work provided the panel with research and background information that served as the foundation for the panel's discussions.

The panel members represented various organizations and agencies. Without the support and time commitment from these groups the review would not have been successful. They included Massachusetts Audubon Society, Massachusetts Sportsmen's Council, Gun Owners' Action League, Department of Conservation and Recreation, Department of Environmental Protection, Department of Fish and Game, the Office of Law Enforcement, the Massachusetts Marine Fisheries Commission and the Fisheries and Wildlife Board. The panel members made significant contributions of time and expertise to this report. In addition, Environmental Affairs Secretary Ellen Roy Herzfelder and her senior staff provided considerable support and direction for this review.

Finally, special thanks go to Bob Austin and Bob Greco from the Department of Fish and Game. Their tireless work and dedication to this project were critical to the completion of this important report.

The Honorable Secretary Ellen Roy Herzfelder
Executive Office of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Secretary Herzfelder:

Last year you appointed the Environmental Law Enforcement Review Panel comprised of 11 representatives from various external stakeholder groups and the state environmental agencies. The role of the panel was to work with an independent consultant to complete a comprehensive survey of stakeholder concerns regarding the Office of Law Enforcement and, ultimately, to make recommendations to improve the operation of the agency. The panel has completed its work and submits this final report for your consideration.

The panel's report identifies opportunities for improvements to the agency and suggests means for more effective and efficient delivery of environmental law enforcement services to the public. As a result of this work, the Executive Office of Environmental Affairs and the new OLE Director will have broader insight into the agency and associated law enforcement issues.

The diverse panel demonstrated passion and dedication to the critical environmental law enforcement function performed by the Massachusetts Environmental Police.

I am pleased to submit this report to you and am confident that it will play an important role in advancing improvements to the Commonwealth's environmental law enforcement capabilities.

Sincerely,



David M. Peters

Commissioner, Department of Fish and Game

Chairman, Environmental Law Enforcement Review Panel

Introduction

In July of 2003, the Secretary of the Executive Office of Environmental Affairs (EOEA), Ellen Roy Herzfelder, undertook significant reorganizations of her offices and agencies. One of the actions taken was to implement Sections 113-114 of Chapter 26 of the Acts of 2003 enacted by the Massachusetts Legislature. The new statute transferred the Division of Law Enforcement (also known as the Massachusetts Environmental Police) from the former Department of Fisheries, Wildlife and Environmental Law Enforcement to EOEA. At this time, the Division was renamed the Office of Law Enforcement (OLE). During the transitional period and the months that followed this structural change, the Director of OLE and several other members of the senior staff retired.

As part of the implementation of the reorganization, Secretary Herzfelder initiated a comprehensive review of the OLE. To structure this effort, the Secretary appointed the Environmental Law Enforcement Review Panel to conduct the review and present options for improving the operations of the agency.

The environmental police have a long history in Massachusetts. For decades this organization has been the primary enforcement arm of the state to insure that the statutes and regulations that manage and protect our natural resources are enforced and that the health and safety of the public is protected on our lands and waters. Increased demands on the agency by both public and private constituencies combined with budget reductions and constraints facing all sectors of government have placed a great deal of stress on the agency's operations. Great passion for the work but a growing frustration with the agency's inability to provide the required level of services was a common theme shared by constituents and environmental law enforcement's labor and management.

Mindful of these tensions, in order for any comprehensive review of this organization to be useful it had to be governed by certain principles:

- The review process had to be open and inclusive.
- The panel members had to represent their constituency's views and be tolerant of opposing views.
- An independent third party was needed to collect information and opinion from public and private sources.
- The panel report needed to be comprehensive yet realistic in its recommendations involving legislative and financial matters.

The following Panel Methodology section outlines in greater detail the process used to develop this report.



Panel Methodology

Secretary Herzfelder convened the Environmental Law Enforcement Review Panel in March of 2004. The panel was comprised of eleven members representing stakeholder groups with great interest in environmental law enforcement in the Commonwealth. The members included two OLE managers, one officer, and representatives of the Massachusetts Departments of Fish and Game, Conservation and Recreation and Environmental Protection, as well as representatives of the state Fisheries and Wildlife Board, the state Marine Fisheries Commission, the Massachusetts Audubon Society, the Massachusetts Sportsmen's Council, and the Gun Owners' Action League. All panel members representing the various groups brought not only the unique perspective of their organization but individual experience and expertise in relevant subject areas.

The panel held several meetings to hear firsthand from EOEA agency personnel, constituent groups, and others. These meetings provided direct interaction between the panel and all interested parties, from the state environmental agency staff, officers, constituents, and the general public. These discussions provided the panel members with background on many issues and broader insight into the issues facing the OLE.

At the first meeting, the Massachusetts Environmental Police management provided a thorough presentation and answered questions about the operations of the OLE. At subsequent meetings, presentations were made by EOEA agency directors regarding the operation of their particular agency, their environmental enforcement needs and expectations, and their working relationship with the Environmental Police agency. The Environmental Police Officers Association leadership provided a presentation to the panel on personnel issues as well.

The panel also heard direct testimony from individuals and representatives of constituent groups relative to their views on environmental law enforcement at a public meeting held in central Massachusetts in September of 2004. In addition, the panel also invited written comment from any interested party on any aspect of environmental law enforcement and was provided with copies of the written comments for review.

At the same time the panel was conducting its meetings, the Executive Office of Environmental Affairs hired the Management Assistance Team (MAT) of the International Association of Fish and Wildlife Agencies to conduct a comprehensive review of the Office of Law Enforcement. The consultant was hired to be an independent voice in the collection of data, gathering facts on the history of the agency, looking at present day operations (including budget, structure, and staffing) and determining constituent and agency perspectives. The consultant's report put forth a list of 57 individual recommendations (see Appendix B, pages 30-34) and supporting data for the panel to consider in drafting its final report to the Secretary of Environmental Affairs.





The Management Assistance Team's methodology for its comprehensive review and subsequent report is listed in pages vi through viii of their report, titled *Comprehensive Review of the Office of Law Enforcement*.

Using the MAT report, information from panel meetings, perspectives from their representative organizations and agencies, and their own experience and expertise, each of the eleven panel members provided their point of view on each of the 57 recommendations by stating in a survey form whether or not they agreed with the recommendations. Panel members were asked to state whether or not they agreed, disagreed, or had no position regarding the recommendations and were also given the opportunity to provide written comments on each recommendation. This information was used as the foundation for discussion at the panel's January 14, 2005 meeting. Discussion at this meeting clarified the panel's perspective and priorities in relation to their final recommendations and provided the format for the final recommendations in this report. These recommendations are detailed in the following pages.

Opportunities for Improvement



Recommendations in Context

The Environmental Law Enforcement Review Panel has submitted final recommendations based on the consultant's report, testimony heard at the panel meetings, and the panel members' collective perspectives on the issues. The panel's recommendations are prioritized so as to be most useful to the Secretary of Environmental Affairs, EOEA and its agencies, the next Director of the Office of Law Enforcement and other stakeholders. By prioritizing the issues, providing useful groupings of recommendations, and presenting abbreviated but meaningful summaries of the recommendations and issues, the panel feels that it has given EOEA and the next OLE Director a broad blueprint to assist in improving OLE services in the future. The MAT report is useful for further background.

The panel has characterized these recommendations as opportunities to improve the operation of the Office of Law Enforcement and the delivery of services to constituents and agencies that depend on environmental law enforcement assistance. These recommendations are not free standing but rather part of a larger effort to improve environmental law enforcement in the Commonwealth.

In addition, it is important to note that many dedicated individuals continue to work daily to deliver environmental law enforcement services and improve OLE operations. There are ongoing improvements that continue to take place on a daily basis relative to many of the recommendations listed in this report, and these are noted in the panel's report where this is taking place.

The next section of the report, "Review Panel Recommendation Groups," lists eight areas or groups of panel recommendations. These groups are designed to organize and prioritize the various issues for the EOEA Secretary and the next OLE Director. All recommendations included in the Management Assistance Team report have been assigned to one of these eight groups but, given the limited scope of many of the MAT recommendations, not all have been specifically addressed in the panel summaries. At the bottom of each group, boxes containing the MAT recommendation numbers refer to the recommendations in the MAT report; each of the 57 recommendations in the MAT report are listed in Appendix B, pages 30-34.



Recommendation Group 1: Mission

The mission of the Office of Law Enforcement (OLE) was listed by the panel members as one of the top ten issues confronting the agency. A large amount of time and effort was placed on defining the mission during the consultant and panel interviews. Constituent groups, agency heads, and law enforcement staff stressed the importance of keeping the agency focused.

A well defined and succinctly articulated mission statement should serve as the cornerstone for all environmental law enforcement functions. A clearly understood mission statement would insulate the agency from pressures that blur or inappropriately expand its mission. Furthermore, a well-developed mission statement, followed by the establishment of reasonable enforcement priorities, implemented in bureau and/or regional work plans with meaningful and measurable goals and objectives, will ensure the most effective use of scarce resources and the highest degree of constituent satisfaction.

The Environmental Law Enforcement Review Panel's review and discussion of the independent consultant's report and testimony from constituent groups, agency staff, and interested parties that testified at the panel meetings have resulted in agreement that the elements of OLE's core mission are to:

- A. Enforce laws and regulations related to natural resource protection including commercial marine fishing, recreational hunting, fishing, and trapping.**
- B. Regulate boats and recreational vehicles and ensuring safety in their use.**
- C. Protect parks and other public lands.**
- D. Investigate issues related to, and ensure the enforcement of hazardous waste and other environmental laws.**

With these elements in mind, the Office of Law Enforcement has recently developed a succinct draft mission statement:

The mission of the Office of Law Enforcement is to protect the environment and natural resources of the Commonwealth of Massachusetts through enforcement, education, and public outreach. Further, the agency is charged with protecting the health, safety, and individual rights of the public and preserving our environment for future generations.

The panel recommends that this mission statement be officially adopted by OLE.

Reference MAT Recommendations 7 and 8, see Appendix B pages 30-34.
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Recommendation Group 2: Director

With varying degrees of agreement, the panel articulated a number of recommendations regarding the attributes required in a new Director of the Office of Law Enforcement. The panel strongly agreed that a new director will need to ensure accountability and be capable of rebuilding relationships and trust with internal and external stakeholders. The majority of the panel endorsed recommendations that the Director attend the EOEa Secretary's weekly staff meetings, monthly meetings with Department Commissioners, and the monthly meetings of the Fisheries and Wildlife Board and Marine Fisheries Commission. It should be noted that the OLE Director has been attending the Secretary's weekly staff meetings since 2003.

The most pressing recommendation was that a new Director have professional training and experience in both law enforcement and natural resources related field. It was identified as one of the top ten issues for the panel. Panelists cited the need for a well-rounded person who could deal with environmental, law enforcement, and personnel issues, and agreed that the person needs to be capable of communicating the environmental protection mission to the general public and building morale within the agency.

Reference MAT Recommendations
1, 2, 3, 4, 5 and 6, see Appendix B pages 30-34.



Recommendation Group 3: Allocation of Resources

Three issues were viewed as high priorities by the panel as regards the allocation of OLE resources. All EOEa agencies should provide a detailed recommendation of their respective needs for Office of Law Enforcement (OLE) services. Given that the mission of OLE is to serve all agencies of the Secretariat, this is a principal need. The panel heard very detailed testimony from various EOEa agencies that shed light on the wide range of enforcement that state agencies feel is necessary for their programs. While the panel overwhelmingly supported the need for OLE to provide services to each of the EOEa agencies, it did also express caveats, such as the need for prioritization, resources sufficient to fulfill the needs, and annual work plans derived from needs assessments that would guide operational and capital budget requests.

Considerable panel discussion was focused upon the development of enforcement priorities. Such an effort will need to be consistent with OLE's mission and should be based on the agency needs as expressed in the needs assessments described above. The number of enforcement priorities will need to be limited, manageable and consistent with available resources. These enforcement priorities should serve as the foundation for work plans that define the methods and strategies for performing the work and, to the extent possible, tailored to the respective bureau or region as appropriate. When the work plans are completed, OLE will be able to establish long- and short-term goals and objectives to further guide and measure performance. In the near term, OLE should concentrate its efforts on only those issues identified as having a high priority.

Setting the enforcement priorities will institutionalize the process that will keep the agency focused on the most important matters and ensure that agency resources are matched to those priorities. The panel discussed at length the imbalance between the demands placed on the agency and the resources required to meet those demands. Once enforcement priorities, work plans, goals, and objectives are completed, the expectations of public and private stakeholders will be set in realistic terms, and progress can be measured toward the attainment of specific enforcement objectives over time.

To ensure broad understanding and effective implementation of enforcement initiatives, OLE enforcement personnel should assist management in the development of priorities and plans. To ensure that constituent needs are reflected in the plans, OLE must also work closely with public stakeholders.

The final major resource allocation issue addressed by the panel was DCR parks enforcement. The panel recommends that uniformed officers should view the DCR State Parks as any other regular patrol area in their district with perhaps even greater emphasis if there are streams, ponds, trails, etc. that will draw the outdoor recreational enthusiast. While there, OLE officers should enforce the DCR regulations but should not perform other non-enforcement duties. Feelings were mixed regarding the recommendation that DCR parks enforcement be built into the core work plans for EPOs who have DCR parks in their patrol area. Concerns included comments that OLE should only undertake enforcement in State Parks, not Urban Parks; only if the appropriate resources are available; or only if they established a separate parks bureau with a dedicated officer cadre.

OLE should provide greater coverage to DCR State Park areas either through special bureau reorganization, additional staff, or through a coordinated relationship with a more robust park ranger cadre. However this is accomplished,

the panel rejected the idea that DCR should pay for EPO regular work time. Since the general taxpayer receives the benefit of this enforcement, budgetary support for this OLE mission should come from the general fund, not from the funding of another agency, in this case DCR.

Other issues discussed as regards resource allocation were ATV enforcement, coverage at the Quabbin, Wachusett and Ware River watershed areas, and overlapping duties of EPOs and park rangers. The enforcement of ATV laws, rules and regulations is a core mission of OLE but this enforcement is

extremely difficult given the huge increase in ATV usage on state conservation land and on private property, the mobility of the machines, and their use in rural or remote locations. Even when enforcement is successful, fines for the violation of most ATV regulations are not sufficiently high to act as a deterrent. OLE needs to do an analysis of ATV enforcement in Massachusetts and work with representatives of local and state law enforcement agencies to determine



the resources (equipment, funding), training, changes in law and/or regulation and other actions needed to enforce ATV laws effectively.

Another issue that received substantial interest by the panel was enforcement coverage at the Quabbin, Wachusett, and Ware River watershed areas. These areas as well as the metropolitan park areas became the responsibility of the State Police when the Metropolitan District Commission, Registry, and other police forces were merged by legislation in 1992. State Police and EPOs have collaborated on enforcement issues in the past, such as annual Quabbin deer hunts, and the majority of the panel supports and encourages these efforts. Clearly the OLE mission, and the qualifications, experience, training and equipment that EPOs possess are valuable assets in these watershed areas. The panel recommends that these collaborative efforts continue and be formalized, if possible, in agreements with the Executive Office of Public Safety for sharing responsibility in state watershed areas.

A majority of panel members favored the MAT review recommendation that a study be done to examine the cost and benefits of converting the park rangers to EPOs, although a variety of cautions were mentioned. For instance, cost savings alone should not be the sole consideration; the recommendation was not specific in terms of which rangers (forest, watershed, urban, state house, etc.); park rangers may not be interested or may not be the best candidates for the EPO job; and rangers, were they to become EPOs, would have to pass the criminal justice training required before they become law enforcement officers.

Reference MAT Recommendations 9, 10, 16, 17, 18, 19, 24, 36, 37, 50, 53, and 57, see Appendix B pages 30-34.

Recommendation Group 4: Agency Structure

The Environmental Law Enforcement Review Panel reviewed the MAT recommendations dealing with the organizational location and various proposed structural changes to OLE. The majority opinion of the panel members was that OLE should stay within the Secretary's Office in the Executive Office of Environmental Affairs. Reasons cited for this were the need to enforce all of the environmental laws of the Commonwealth, the ability to provide a broader range of environmental services, and also that it would be better for staff morale. Some panelists opposed this measure in the belief that OLE should be closer to its "principal customers" whose activities are largely managed through the Department of Fish and Game. Other panel members argued that if the agency is to remain in the EOEA Secretary's Office, it should have an oversight or regulatory board similar to the Marine Fisheries Commission or Fisheries and Wildlife Board (see Appendix A, page 29).

The MAT report suggested that OLE review the existing regional structure and determine if it is the most effective way to deliver services. The region and district lines were established in 1985 and have not changed substantially since then. Subdividing the state into regions and districts in the inland bureau continues to make sense and these boundaries are currently under review by OLE. The district system for the coastal bureau, however, has not been adhered to for some time because it is not a practical use of manpower. Similarly, the other bureaus within OLE have not regionalized their services because it does not improve their operations. The panel endorses and applauds the Acting

Director's efforts to refine boundaries within the bureaus as necessary to optimize the use of limited personnel and best meet the goals of the agency. These efforts should continue. Furthermore, the panel suggests that such regional work plans developed for the inland section should follow the process described in the "Allocation of Resources" section of this report.

Another issue dealing with OLE organizational structure was the recommendation to investigate whether the work performed by the Marine Theft Unit is part of the core mission of OLE and whether the costs are commensurate with the benefits of the program. The majority of the panel agreed with the need for this study but opponents argued that theft prevention and investigation is a core mission of OLE and it is not right that only one program activity be targeted for study in this way.

It should be noted that the panel did not endorse a MAT recommendation to appoint two special investigators to provide on-the-ground environmental law enforcement investigative work. Panel members felt that all OLE staff should be trained in investigatory process, that this work can be done by existing staff, and that hiring two investigators is a luxury that no agency can currently afford.

Reference MAT Recommendations 15, 23, 25, 26, 27, 54, and 55, see Appendix B pages 30-34.

Recommendation Group 5: Hiring

The issue receiving the most panel discussion was whether the entrance requirements for the environmental police officer position should be changed to allow a criminal justice degree to be substituted for the required two years of work experience in an environmental field. The current entrance requirements that candidates must meet at the time of hire are as follows:

Required work experience: At least two years of full-time, or equivalent part-time, professional or paraprofessional experience in wildlife or fisheries conservation or management, natural resources conservation or management, biological or environmental science, forestry, ecology, marine science, or conservation law enforcement.

Substitutions:

- An Associate's degree in environmental science, biology, oceanography, ecology, natural resource management, wildlife management, fisheries management, forestry, marine science, or conservation law enforcement may be substituted for one year of the required experience on the basis of two years of education for one year of experience.
- A Bachelor's or higher degree in environmental science, biology, oceanography, ecology, natural resource management, wildlife management, fisheries management, forestry, marine science, or conservation law enforcement may be substituted for the required experience on the basis of two years of education for one year of experience.
- One year of education equals 30 semester hours. Education toward a degree will be prorated on the basis of the proportion of the requirements actually completed.

Panel debate centered on the type of college degree that would be appropriate as a substitution for the required work experience. Proponents for change argued that the current criteria are exclusionary and any degree should be acceptable provided that the civil service exam be natural resource (environmentally) oriented. Opponents of this change argued that the environmental background is necessary because of the ever increasing complexity of environmental regulation and because it is what makes environmental police distinct from all other police organizations. The MAT study suggested allowing a criminal justice degree to replace the two years of background in environmental work. The majority of the panel agreed that an environmental police officer needs to have an understanding of both environmental and criminal justice issues and recommends that the entrance requirements for the environmental police officer remain unchanged.



Another issue discussed at length by the panel was OLE staffing. Retirements and routine attrition, combined with the cumbersome civil service hiring process, has resulted in some reductions in staffing over the past five to ten years. During this same period, enforcement activities have expanded in the areas of large animal control, right whale and other endangered species enforcement, boating while operating under the influence, recreational vehicle control, complex national and state commercial fish and lobster regulations, homeland defense, forest and park enforcement and other laws and regulations.

In order to meet its environmental enforcement mission, the panel feels that it is imperative that OLE has a full complement of officers. OLE should perform a needs assessment, review the Office's structure, and develop priority work plans. These actions will provide a clearer picture of the optimal level and allocation of resources required for efficient and effective delivery of environmental law enforcement services. These tasks should be undertaken immediately by OLE so as to determine how operational efficiencies and more effective utilization of ranger and other staff can enhance the level of OLE services, and to ensure that positions serving core agency functions (as defined in a newly developed mission statement) are filled.

The panel also recommends that the civil service exam questions be germane to the duties and responsibilities of the position; that the state Human Resources Department receive input on the exam from a larger number of officers than has been the case in the past; and that the exam be conducted as frequently as practicable to assure a viable mix of candidates. HRD is, at present, working extensively on a new exam to be conducted later in CY2005.

Reference MAT recommendations 11, 20, 30, and 31,
see Appendix B pages 30-34.

Recommendation Group 6: Personnel

The MAT report discussed issues of progressive discipline, performance management, code of conduct and other matters covered by the collective bargaining agreement; EPO pay; and incentives for geographic areas currently underserved. The panel recommends that:

- Good relationships must be developed and maintained between all parties for the common good of all OLE employees and the public that they serve;
- Matters directly covered by negotiated agreements should be addressed and resolved at the bargaining table; and
- OLE investigate and acknowledge all complaints and establish tracking and filing systems to address these complaints as well as to document OLE successes.

The panel agreed with these recommendations since accountability is a fundamental component of good management. Most of the MAT report's recommendations regarding matters covered by Unit 5 collective bargaining agreement are peripheral to the panel's charge; many have been implemented and are working practices in the OLE today. That said, the panel also recommends that OLE create work incentives to recruit and retain officers on the coast. It was suggested that additional rank and extra compensation be given to those land-based coastal officers, or that better working conditions for all officers would improve not only the job performance but also the retention of coastal officers.

OLE officers do not receive three benefits that other police and some fire agencies receive. The first is an educational incentive (Quinn Bill) that has been the subject of much controversy. The Quinn bill provides up to a 25% increase in salary for an Associates, Bachelors or Masters Degree in Criminal Justice. EPOs do receive salary increases for additional degrees, but they are not as lucrative as those provided by the Quinn Bill. The second is the Heart and Lung bill which presumes that medical complications suffered by an officer due to a heart attack, stroke or high blood pressure are job related injuries and are therefore fully covered under the workers compensation statute. The third benefit is "injured on duty" protection for injuries sustained on the job. Again, EPOs receive injured-on-duty benefits but they are not as extensive as those offered to the State Police and other enforcement organizations.

Finally the panel spent considerable time discussing the issue of differing levels of pay and benefits between the Environmental Police and the State Police. Some panel members felt that EPOs needed full parity or full compensation, or at least parity in benefits. Others suggested that parity should be with the other EOEA agencies and not with the State Police. In any case, the panel believed that the appropriate means for EPOs to address the issues related to benefits and compensation is through legislation and through labor/management negotiations.

Reference MAT Recommendations 21, 22, 28, 29, 33, 38, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49 ,and 52, see Appendix B pages 30-34.

Recommendation Group 7: Training

The training provided to OLE recruits and officers is extensive and, therefore, none of the recommendations regarding training in the MAT report were of highest concern to the panel. There are, however, areas where additional information or assistance could be useful to the staff. One such area is professional development or career advancement training. Low cost and no cost courses are provided by the state Human Resources Division to establish or enhance various professional skills, but they are not offered throughout the state. Furthermore, all state employees may take courses at state schools and be reimbursed for the costs. The panel recommends that OLE provide as much assistance as possible to prepare its cadre for advancement through the ranks. Acknowledgement was made that this, too, is a matter covered by collective bargaining agreements.

Reference MAT Recommendations 32, 34, 35, 42 , and 51,
see Appendix B pages 30-34.

Recommendation Group 8: Fiscal Accountability and Internal Controls

The OLE is comprised of two organizational parts: the administration and registration section and the law enforcement branch (Massachusetts Environmental Police). The administration and registration section is headed by a Deputy Director who must be skilled in budgeting and fiscal administration. This position was vacant during the period that the consultant study was in process but has recently been filled. The filling of this critical position and the additional assistance provided by the Fiscal Division of the Executive Office of Environmental Affairs has obviated the need for additional studies and financial audits other than those that are currently underway. A system of internal controls needs to be implemented in order to provide both internal and external stakeholders with a more effective system that can monitor operations, handle complaints, and provide accurate information about the effectiveness and efficiency of OLE. The panel makes the following relevant recommendations:



- OLE should develop a tracking system for operations and complaints in order to ensure that all complaints are handled in a timely and proper manner.
- OLE should prepare benchmark reports that quantify and measure the agency's pursuit and attainment of objectives within a reasonable time frame. OLE program managers should be authorized to expend those amounts allocated for specific projects or activities provided that they are trained in the state purchasing requirements. The OLE administrative staff reports that these measures will be implemented in fiscal year 2006 and will assist the Director in maintaining the agency focus and attainment of critical objectives.



- OLE, in consultation with and assistance from EOEAs Assistant Secretary for Public Affairs and EOEAs Public Affairs staff, should develop a public information plan, the components of which should include a brochure, a frequently updated page on the EOEAs website, and news releases and articles. The goal of the public information plan is to inform citizens and local government about cases OLE officers have successfully resolved, and services available from OLE to the general public and to local law enforcement officials.

As part of this effort, OLE should reformat the annual report that it currently prepares for internal use, and share it with the public so that it can be used to demonstrate both the challenges and the successes of the agency.

Reference MAT Recommendations 12, 13, 14, and 56, see Appendix B pages 30-34.
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Conclusion

The completion of this report by the Environmental Law Enforcement Review Panel has been a team effort involving hundreds of hours of time dedicated by panel members, staff from the EOEA agencies, and individuals throughout the Commonwealth. Publication of this report and the Management Assistance Team's review were an open and transparent process involving all of the above-mentioned groups.

Despite its diverse membership background and disagreements on some issues, the Environmental Law Enforcement Review Panel agreed on a list of priority recommendations critical to improving the Office of Law Enforcement's operations. Listed below are the panel's highest priority recommendations for implementation.

1. The agency must articulate and adhere to a clear and distinct mission.

The panel believes that the OLE should concentrate on environmental enforcement and that resources and priority work plans must strictly adhere to the mission. The main components of the mission are listed below:

A. Enforcing all laws and regulations relative to natural resource protection, including commercial marine fishing, recreational hunting, fishing and trapping.

B. Regulating boats and recreational vehicles and ensuring their safe operation and use.

C. Protecting parks and other public lands.

D. Investigating and enforcing hazardous waste and environmental pollution related laws.

2. Hire a professional agency Director who has significant environmental and enforcement credentials.

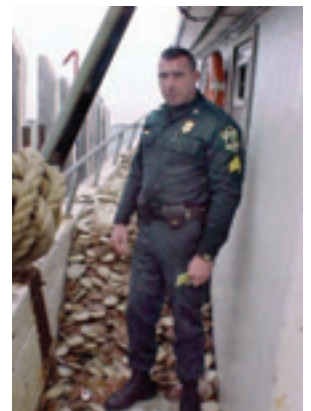
The panel believes it is extremely important to hire a Director of the Office of Law Enforcement who has both an environmental and a law enforcement background.

3. The new Director needs to rebuild relationships among agency personnel and stakeholders to implement appropriate administrative changes.

The panel feels that the Director must make immediate efforts to rebuild agency morale and constituent support by establishing all changes up front and requiring accountability and transparency.

4. The Office of Law Enforcement should remain within the Environmental Affairs Secretariat.

The panel feels that the OLE provides specialized environmental law enforcement services and should remain in its present location at the Executive Office of Environmental Affairs.



5. Keep the requirement that an EPO have an environmental background.

The majority of the panel feels that the entrance requirements for the Environmental Police Officer (EPO) position should not be changed. Entry level officers should have experience or education in an environmental field before hire.

6. Identify core positions and allocate sufficient resources and staff to accomplish agency goals.

The panel believes that OLE should determine proper staffing levels required for efficient and effective delivery of environmental law enforcement services. Key positions serving core agency functions as defined in the newly developed mission statement should be filled to avoid critical gaps in service.

7. The Office of Law Enforcement should continue to further develop internal controls for fiscal accountability and transparency.

The panel believes it is important for the OLE to adopt, implement, and continue to monitor additional internal controls to achieve strategic objectives to meet agency goals.

In identifying these opportunities for improvement, the panel feels this report is an important first step in aligning constituent needs with the services being delivered by the agency. The priority recommendations listed above are the foundation upon which improvements to the OLE should be based.

As a result of the discussions that have occurred during this review process, some of these recommendations have been or soon will be accomplished through administrative means. Others will require significant support from the non-profit community, state boards and commissions, private citizens and legislative and executive branch leaders in order to be fully implemented.

There exists a great opportunity at this time for improving environmental law enforcement services in Massachusetts. It is very clear that there is strong advocacy for the mission of OLE and the role that the agency plays in protecting the natural resources of Massachusetts. Maintaining a cooperative spirit and open lines of communication with these partners will allow OLE to more effectively and efficiently deliver environmental enforcement services.

Environmental laws and regulations are meaningless without effective enforcement. The panel hopes that this report and the individuals who have contributed to the review process can serve as a resource to the next OLE

Director and all those who believe that natural resources are worth protecting and that environmental law enforcement is an essential part of accomplishing their protection.



Appendix A: Citizen Oversight Board

The 57 specific and general recommendations that had been submitted by MAT represented a broad spectrum of issues and perspectives. The Environmental Law Enforcement Review Panel members were allowed to submit for consideration by the Secretary substantively important ideas not addressed by the consultant in the final MAT report.

The following issue is submitted for the Secretary's consideration.

Proposal: The Office of Law Enforcement Oversight Board

The need for OLE to build strong and lasting relationships with its public and private stakeholders was mentioned throughout the MAT report and was often raised as an issue in the panel discussions and deliberations. The MAT report also highlighted the fact that OLE is weak in building capacity for governance but offered little in the way of solutions to address this deficiency. Building on previous studies (such as the *Agenda '90* report on EOEA agencies) that have recommended that OLE have a citizen advisory board, this recommendation suggests that such a board be established with members appointed by the Governor from other natural resource boards and citizens from stakeholder groups. A strong oversight board that met regularly would provide an effective institutional process for the communication of information to and from key OLE decision makers. In addition to fostering support from the environmental community, it would also be extremely valuable in helping the OLE assess the stakeholder's needs and evaluate how well these needs are being met. A further benefit, and one that is enjoyed by existing natural resource boards, would be to guarantee that the Director and senior staff are insulated from the limitations of appointments coterminous with the Governor.

OLE enforces regulations that are often related to environmental issues that operate within long ecological time frames. The effectiveness of public environmental policy and agency programs related to these policies is keyed to the consistency of management over the time period needed to scientifically assess their effectiveness and to adjust them if necessary. Repeated changes in OLE leadership introduce uncertainty and inconsistency that can be destructive to sound public environmental policy and programs. A professional Director who reports to a strong board and whose tenure is based on periodic evaluation of his or her professional performance is essential to attaining the leadership and achievements needed to propel the OLE into a premier enforcement organization.

Appendix B: List of Management Assistance Team Recommendations

1. The new administration of the OLE needs to establish all changes up front and firmly require improvement and accountability.
2. Reconsider the salary for hiring a new OLE Director to include making it more commensurate with the level of responsibility for the position.
3. Include job criteria for the OLE Director position to reflect both environmental/natural resource and law enforcement/criminal justice experience, as well as experience in relationship and trust building.
4. Include the OLE Director in the EOEA Secretary's monthly meetings of Commissioners and the Secretary's Executive Office weekly meetings.
5. The new Director of the OLE needs to prioritize at the top of his/her agenda the rebuilding of relationships founded on mutual trust.
6. The new Director of the OLE needs to attend the Fish and Wildlife Board meetings in person as frequently as possible.
7. The core mission of the OLE should focus on: A) enforcement of laws related to natural resource protection including commercial marine fishing, recreational hunting, fishing and trapping; B) regulating boats and recreational vehicles and ensuring for safety in their use; C) protection of parks and other public lands; and D) investigation and enforcement of hazardous waste and environmental pollution related laws.
8. The OLE should engage in a formal mission development process with input from external and internal stakeholders to produce a succinct mission statement and accompanying broad goals and targeted objectives with follow-up communication and referencing.
9. The OLE should develop dynamic, priority issue plans with input from all officers and major constituents.
10. Have the OLE and all other departments and offices under the EOEA specifically identify their needs for OLE services.

11. Exempt the OLE from the general state funding practice of capping the number of positions funded to the previous year's number of filled positions and implement a forecasting process which will enable the OLE to recruit new EPOs so they can maintain a targeted staffing level.

12. Produce quarterly and annual spending reports; track spending against predefined goals and objectives; share financial information among all management.

13. Conduct a comprehensive financial audit of the OLE covering the last five years.

14. Give spending authority (to OLE program managers) for operations other than personnel.

15. Keep the OLE in its present location housed under the EOEa with EOEa support.

16. Examine the costs to benefits of converting the park rangers to EPOs.

17. Build parks enforcement into core work plans for EPOs who have parks in their patrol area.

18. Negotiate an agreement with State Parks for EPO environmental law enforcement services as part of the EPO regular workload and allocate funds from the Division of State Parks and Recreation to help pay for it. (EPOs must diligently document their time on parks enforcement.) Conduct a return on investment evaluation in one year.

19. The Commonwealth should evaluate the State Police responsibility of providing enforcement on the Quabbin and Wachusett watersheds and examine the benefit of more effectively sharing the responsibility and resources with EPOs for environmental law enforcement on the watersheds.

20. Hire the complete requisite number of officers authorized by statute to fully meet staffing for the current enforcement needs.

21. To ensure sufficient and efficient supervision, define supervisory roles from the first line of supervision up through the top, then apply span of control ratios that work for the geographic and budget parameters.

22. Do a job-task analysis on every position when it becomes vacant and answer each time: “Is it in the right location?”; “Does it need to be a supervisor or a field officer?”; “Are there any other special needs?”
23. Establish two special investigator positions to be trained to provide on-the-ground environmental law enforcement investigative work.
24. Complete a review of the Deputy Program to determine the wisdom and practicality of using deputies as additional or supplemental staff.
25. Evaluate existing regional structure and redirect work via the work plans developed from each of the regions (see Recommendation #9).
26. Make OLE one operations unit having specific performance standards related to enforcement needs in each geographical area.
27. Conduct a return on investment assessment of the Bureau of Marine Theft to evaluate the costs against the benefits and the role of the Bureau against the core mission of the OLE.
28. Create pay and benefits parity between the OLE and the State Police.
29. Compare the advantages of providing the ability to earn overtime with the advantage of reclassifying captain, major and colonel positions so their salary scale is appropriate when compared to lieutenants and other officers.
30. Re-evaluate the exam questions and the frequency of giving the hiring exam based on input from a greater number of officers than currently obtained.
31. Hiring criteria for EPOs should require a biological/environmental/natural resources degree or criminal justice/law enforcement degree.
32. Examine the current OLE orientation and training process and identify where new recruits’ cultural alignment with the EOEA can be strengthened before beginning the job.
33. Consider developing work incentives for recruitment and retention of EPOs on the coast.

34. Assess EPO professional development needs and establish an in-service training program where needed to meet those needs.
35. Develop professional development/career advancement opportunities for EPOs.
36. Hold all supervisors accountable for the accurate and efficient reporting of work time and activity.
37. When prioritizing plans, develop concise time/activity accounting forms that capture only the most important information required, i.e., information that is absolutely essential to be reported on.
38. Consistently adhere to the policies and processes agreed in contract between the OLE and its Union covering discipline and grievances; hold everyone accountable.
39. Outline in policy a notification and follow-up process for the investigators to follow regarding both the employee and the person filing the complaint.
40. Outline steps for progressive discipline in the Discipline Policy.
41. Make sure the Internal Affairs investigators, as defined in the Policy, are clearly in place and know what to do.
42. Provide all Internal Affairs Investigators with professional development training on conducting personnel investigations.
43. Include, under misconduct definitions in the current Internal Affairs Policy (#ADM-005), a reference to the Code of Conduct in the Unit 5 Labor Contract.
44. Investigate and acknowledge all complaints, no matter how minor, to establish an accountability base line for allegations and handling of misconduct.
45. Establish a tracking and filing system for all complaints filed against the OLE with one individual responsible for this system.
46. Establish an agency tracking and filing system to document the successes of the OLE.
47. Redirect utilization of Union/Management Committee in Article 22 of Unit 5 of the Collective Bargaining Agreement to increase effectiveness of continuing communication between the parties and promoting a climate of constructive employee relations.

48. The Union and OLE management should work together with the MA Office of Human Resources to improve the performance evaluation form and consistently use it for all OLE employees.

49. Use the resources provided in the Unit 5 Labor contract (Section F of Article 22) that calls for the Commonwealth to establish a fund of \$10,000 for training and materials for performance management.

50. All levels of supervision need to ensure that officers are fully aware of and working on priority issues before they address any other enforcement issues.

51. Provide all supervisory officers with continuing professional development in effective supervision and management.

52. Establish and clearly communicate where the first line of supervision is, then separate lieutenant supervisors in bargaining units from their field officer subordinates.

53. Increase overall EPO effectiveness and security by funding the technology project already underway for increasing officer safety, information retrieval and reporting.

54. Explore the possibility of OLE's sharing the public outreach/public relations staff of the EOEA.

55. Include the successes and accomplishments of the OLE on the EOEA departmental websites (see Recommendation #54).

56. Produce an Annual OLE Report (see Recommendation #54).

57. Conduct a needs assessment among all the EPOs, to determine infrastructure needs and priorities, then provide the OLE with the facilities to accommodate impoundments, evidence storage, lock-ups, boat slips and storage of other seizure material.